

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

UNITED STATES OF AMERICA

Civil No. 11-cv-00579

V.

CRIMINAL NO. 3:08-00198

KATHRYN ANN HEMETEK

RENEWED MOTION FOR BOND

Comes the petitioner, Kathryn Ann Hemetek, and renews her previous motion for bond. Ms. Hemetek has served 30 months of her sentence, has a serious medical issue requiring attention that is not readily available through the Bureau of Prisons, and has presented evidence that raises issues sufficient to justify the Court releasing her on bond pending resolution.

Ms. Hemetek was taken into custody in June, 2009, and has served 30 months' incarceration, more than the minimum Guideline sentence of imprisonment, had the minimum mandatory sentence of 60 months not been applied.

Petitioner has submitted credible evidence that she is likely to prevail relating to whether she was adequately represented. Petitioner has submitted affidavits that she was not advised as to the minimum mandatory or the safety valve provisions. She would not have taken her case to trial were she aware of her exposure to a minimum mandatory sentence. She was not given an opportunity or advised of the safety valve provisions. It was expected that she would have two criminal history points, but when it developed that she had only one criminal history point, she was not advised as to the option to be debriefed and qualify for the safety valve.

Petitioner also presented as to trial counsel's strategy and the availability of other

evidence to the defense that was used. She presented evidence of a preexisting personal animosity between certain witnesses for the government that was not made known to the finders of fact.

Further, petitioner's medical problems are no better. She is on crutches. She requires bone graft surgery. Petitioner has family in West Virginia with strong ties to the community. Given her physical condition, she is unlikely to flee, fail to appear for a hearing, and she was not considered a danger to the community.

She renews her request that she be released to the custody of her family, and will appear for all court hearings as required.

The petitioner asks that the Court grant her bond in the custody of her parents pending any further proceedings in this matter.

KATHRYN ANN HEMETEK

BY COUNSEL

/s/ Jacqueline A. Hallinan
Jacqueline A. Hallinan (#5189)
HALLINAN LAW OFFICES, PLLC
Counsel for Defendant
100 Capitol Street, Suite 804
Charleston, WV 25301
(304) 346-1201
fax: (304) 346-1203
email: jhallinan@hallinanlaw.com

CERTIFICATE OF SERVICE

I, Jacqueline A. Hallinan, counsel for defendant, hereby certify that the attached Renewed Motion For Bond was served on Assistant United States Attorney Josh Hanks, counsel for the United States by CM/ECF on December 23, 2011.

/s/ Jacqueline A. Hallinan
JACQUELINE A. HALLINAN